

CITY OF EUREKA

Category: HUMAN RESOURCES

POLICIES & PROCEDURES

Subject: AFFORDABLE CARE ACT (ACA)
REPORTING AND SAFE
HARBORS MEASUREMENT

Date Adopted: June 18, 2020

File 3.04
Number

POLICY OBJECTIVE

The purpose of this policy is to establish a procedure to comply with the Patient Protection and Affordable Care Act (hereinafter referred to as the “ACA”), which became effective on March 23, 2010. The City of Eureka (“City”) is considered an “applicable large employer” for the purposes of the Shared Responsibility Provisions (Section 4980H to Title 26 of the United States Code, the Internal Revenue Code) of the ACA. The City is also considered an “applicable large employer” for the purposes of Section 6056 to Title 26 of the United States Code and, therefore, is subject to the reporting requirements referenced therein.

The Internal Revenue Service (“IRS”) may assess an Employer Shared Responsibility Penalty (“ESRP”) against the City if it fails to offer “substantially all” of its full-time employees (and their dependents) the opportunity to enroll in minimum essential coverage. The ACA requires the City to report the identity of, number of (and coverage offered to) ACA defined full-time employees. Accordingly, for the purposes reporting to the IRS for an assessment of potential penalties under the ESRP, this Administrative Procedure (“AP”) describes the City’s application of the “Look Back Measurement Method Safe Harbor” (“Look Back Safe Harbor”) under ACA, which the City shall use to identify “full-time” employees for reporting purposes.

ASSIGNED RESPONSIBILITY

Human Resources Director, Finance Director.

APPLICABILITY

All Employees

PROCEDURES

I. LOOK BACK MEASUREMENT METHOD SAFE HARBOR

The City utilizes the Look Back Safe Harbor in order to determine the reportable Hours of Service of all City employees. Hours of Service are measured during the specified measurement period. If the employee averages 30 Hours of Service per week over the course of the specified measurement period, the City will report to the IRS the employee’s status as full-time under the ACA for months during the stability period associated with that measurement period, subject to the following rules. While the City may report an employee to the IRS as full-time

for purposes of the ESRP assessment, the employee does not become full-time for any other purpose.

- A. **Hours of Service Calculation:** For the purposes of this AP, “Hours of Service” means each hour for which an employee is paid, or entitled to payment for the performance of duties for the City, and each hour for which an employee is paid, or entitled to payment by the City for a period of time during which no duties are performed due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence. (This definition is consistent with 26 C.F.R., § 54.4980H-1, subd. (a)(24).)
1. **For Hourly Employees:** The City will calculate actual Hours of Service from records of hours worked and hours for which payment is made or due. (See 26 C.F.R, § 54.498H-3, subd. (b)(2).)
 2. **For Non-Hourly employees:** The City will apply one of the following three methods on a reasonable and consistent basis:
 - a. Calculate actual Hours of Service from records of hours worked and hours for which payment is made or due;
 - b. Calculate Hours of Service using a days-worked equivalency (8 hours per day for each day employee is credited with an Hour of Service); or
 - c. Calculate Hours of Service using a weeks-worked equivalency (40 hours per week for each week employee is credited with an Hour of Service).(See 26 C.F.R, § 54.498H-3, subd. (b)(3).)
 3. **Bona fide Volunteer:** The term “Hours of Service” does not include any hour for service performed by/as a bona fide volunteer. A bona fide volunteer is an individual whose only compensation from the City is in the form of (a) reimbursement (or reasonable allowance) for reasonable expenses incurred in the performance of volunteer service; or (b) reasonable benefits and nominal fees,

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customarily paid by similar entities in connection with the performance of services by volunteers.

Services performed as part of a Federal Work-Study Program, or a substantially similar program of a State or political subdivision thereof, do not constitute “Hours of Service” for the purposes of this AP.

In addition, services performed for compensation from sources outside of the United States will not constitute “Hours of Service” for the purposes of this AP. (See 26 C.F.R., § 54.4980H-1, subd. (a)(24).)

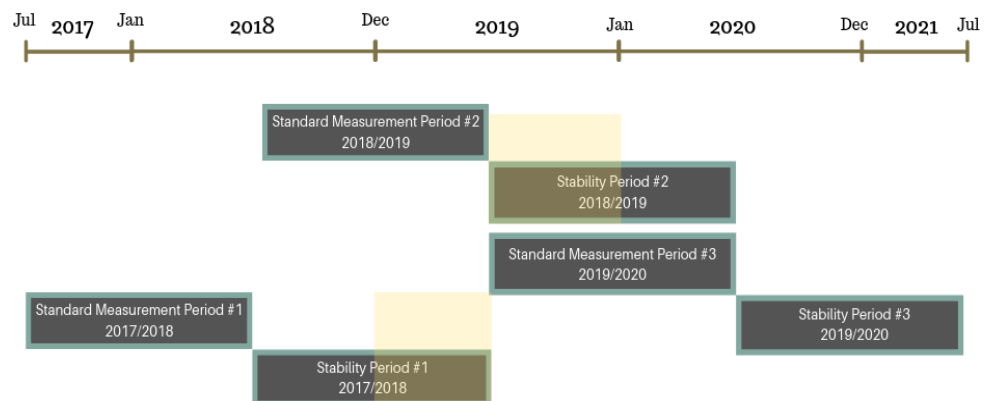
- B. Ongoing Employees:** The City utilizes the Look Back Safe Harbor with regard to all ongoing employees as follows:

Standard Measurement Period: July 1 through June 30 (starting July 1, 2017 and continuing each year thereafter)

Stability Period: July 1 through June 30 (starting July 1, 2018 and continuing each year thereafter)

If an ongoing employee’s employment status changes (from full time to less than full time or vice versa) before the end of a stability period, the change in status will not affect the classification of that employee’s status for the remaining portion of the stability period. (See 26 C.F.R. § 54.4980H-3, subd. (d)(1).)

Detailed Explanation: For the purposes of reporting an employee's status as full time, or less than full time, the City will consider the employee's status under the two stability periods overlapping with the reporting (calendar) year. For example, to determine whether an employee will be reported as "full time" for the 2019 calendar year, the City will review the July 1, 2017 – June 30, 2018 standard measurement period (to determine full-time status for reporting during the months of January 1, 2019 through June 30, 2019) and the July 1, 2018 – June 30, 2019 standard measurement period (to determine full-time status for reporting during the months of July 1, 2019 through December 31, 2019). The City will combine these two applicable stability periods to determine an employee's reportable status as full time, or less than full time during the 2019 calendar year, as highlighted below:



- C. **New Full-Time Employees:** On the start date of a new employee's employment, the City will determine whether the employee is reasonably expected to be a full-time employee (i.e., the employee is expected to average at least thirty (30) Hours of Service per week over the initial measurement period). If the employee is reasonably expected to be a full-time employee, and not a seasonal employee (i.e., employed for a definitive, limited duration), the employee will be considered full-time for purposes of reporting to the IRS for ESRP assessment. (26 C.F.R., § 54.4980H-3, subd. (d)(2).)

- D. New Variable Hour Employees:** If on the start date of a new employee's employment, based on individual facts and circumstances, the City is unable to determine that the employee is reasonably expected to be employed an average of at least thirty (30) hours per week over the initial measurement period, then the employee is considered a variable hour employee.

The City establishes the following periods for new variable hour, new seasonal, and new part-time employees:

Initial Measurement Period: Twelve months (beginning on the first of the month following the new employee's start date unless the employee starts on the first day of the month, in which case it begins on the start date).

Stability Period: Twelve months following the end of the initial measurement period unless the new variable hour, new part-time or new seasonal employee does not measure as a full-time employee during the initial measurement period, then the stability period associated with the initial measurement period must not exceed the remainder of the standard measurement period.

(See 26 C.F.R., § 54.4980H-3, subd. (d)(3)(i).)

- E. New Variable Hour, Part-Time or Seasonal Employee's Change in Status During Initial Measurement Period:** If a new variable hour, new part-time, or new seasonal employee's position changes during the initial measurement period, and had the employee started his or her employment in that new position, the City would have reasonably expected that new employee to average at least 30 Hours of Service per week, then for purposes of identifying a full-time employee for reporting purposes only, an employee will be considered a full-time employee on the earlier of (1) the first day of the fourth full calendar month following the change in employment status, or (2) the first day of the first month following the end of that employee's initial measurement period if the employee averaged 30 or more Hours of Service per week during the initial measurement period. If a new variable hour, part-time, or seasonal employee's position changes during the initial measurement period, and had the employee started his or

her employment in that new position, the City would have reasonably expected that new employee to average at least 30 Hours of Service per week, then the City will treat that employee as full-time as of the first day of the month following the change in status to full-time. (See 26 C.F.R., § 54.4980H-3, subd. (d)(3)(vii).)

- F. Transitioning from New Variable Hour, Part-Time or Seasonal Employee to Ongoing Employee:** The City will measure the hours of a new variable hour, new seasonal or new part-time employee during the first complete standard measurement period for which he or she is employed. This means that a new variable hour, new seasonal or new part-time employee's Hours of Service will be measured both under an initial measurement period and, at the same time, be measured under the overlapping standard measurement period that applies to other ongoing employees.
1. If an employee's Hours of Service measure as full-time during the initial measurement period, he/she will retain full-time status for the entire associated stability period (even if the employee does not qualify as full-time during the standard measurement period).
 2. If an employee's Hours of Service do not measure as full-time during the initial measurement period, but do measure as full-time during the standard measurement period, the employee must be treated as full-time during the stability period associated with the standard measurement period (even if that stability period starts before the end of the stability period associated with the initial measurement period).

(See 26 C.F.R., § 54.4980H-3, subd. (d)(4).)

- G. Calculating Hours of Service Based on Payroll Periods Under the Look Back Safe Harbor:** The City may calculate Hours of Service based on payroll periods when calculating Hours of Service over any measurement period. It has two options for doing so. The City may exclude the entire payroll period that contains July 1 (the first day of the Standard Measurement Period), as long as it includes the entire payroll period that contains June 30 (the last day of the Standard Measurement Period). Alternatively, the City may exclude the entire payroll period that contains June 30 (the last day of the Standard Measurement Period), as

long as it includes the entire payroll period that contains July 1 (the first day of the Standard Measurement Period).

(See 26 C.F.R., § 54.4980H-3, subd. (d)(1)(ii).)

H. Breaks in Service: When an employee experiences a break in service without providing at least one Hour of Service, the employee will retain the status the employee had previously with respect to any stability period, except that an employee will be treated as a new employee in the following circumstances:

1. If the employee resumes employment after a period of at least 13 consecutive weeks with less than an Hour of Service; or
2. If the employee's period of no service (measured in weeks) is at least four consecutive weeks long and exceeds the number of weeks of that employee's period of employment immediately preceding the period of no service (after application of averaging Special Unpaid Leave as set forth in section I below).

(See 26 C.F.R., § 54.4980H-3, subd. (d)(6)(i)(A),(iv).)

I. Special Unpaid Leave: Special Unpaid Leave is defined only as unpaid leave under the Family and Medical Leave Act of 1993, unpaid leave under the Uniformed Services Employment and Reemployment Rights Act of 1994, or unpaid leave on account of jury duty. When an employee takes Special Unpaid Leave, the City will determine the weekly average of Hours of Service by the employee for that portion of the measurement period that is not part of the Special Unpaid Leave, i.e. an average that excludes any Special Unpaid Leave during that measurement period ("Average Weekly Hours of Service"). The City will then determine, on a consistent basis, the average Hours of Service for the entire measurement period by excluding the period of Special Unpaid Leave and applying the Average Weekly Hours of Service over the entire measurement period.

(See 26 C.F.R., § 54.4980H-3, subd. (d)(6)(i)(B); 26 C.F.R., § 54.4980H-1, subd. (a)(44).)

II. AFFORDABILITY SAFE HARBORS

The City in its sole discretion may apply the Rate of Pay Safe Harbor, the Form W-2 Safe Harbor, or the Federal Poverty Line Safe Harbor to determine the

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affordability of the minimum essential coverage that it offers its full-time employees. These affordability safe harbors will be applied on a uniform and consistent basis for all employees in a reasonable category.

1. Rate of Pay Safe Harbor

- a. The City measures whether the employee's Required Premium Contribution (as defined in Section III.4) for the calendar month to the lowest cost self-only coverage that provides minimum value exceeds an IRS determined percentage of the monthly wage (an "Applicable Percentage Rate" for the year). For calendar year 2018, the Applicable Percentage Rate is 9.56% of the monthly wage. For calendar year 2019, the Applicable Percentage Rate is 9.86% of the monthly wage.
- b. For hourly employees, the monthly wage is equal to 130 hours multiplied by the employee's hourly rate of pay as of the first day of the coverage period or the employee's lowest hourly rate of pay during the calendar month, whichever is lower.
- c. For salaried employees, the monthly wage is the monthly salary as of the first day of the coverage period. However, if the monthly salary is reduced, including due to a reduction in work hours, the safe harbor is not available. If rate of pay increases during the year, the City will use the lowest rate of pay for the year in the calculation.
- d. The coverage offered by the City will be deemed affordable if the employee's monthly Required Premium Contribution is equal to or less than the Applicable Percentage Rate of the employee's monthly wage.

2. Form W-2 Safe Harbor

- a. The City measures whether the employee's Required Premium Contribution for the full calendar year for the lowest cost self-only coverage that provides minimum value exceeds an amount equal to the Applicable Percentage Rate of the employee's Form W-2 wages (as reported in Box 1) for the calendar year in which coverage is offered.

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- b. For an employee who is not offered coverage for an entire calendar year, the City must adjust that employee's Form W-2 wages to reflect the period for which coverage was offered. To adjust wages, the Form W-2 wages are multiplied by a fraction equal to the number of calendar months the City offered coverage over the number of calendar months in the period of employment during the calendar year.
- c. The coverage offered by the City will be deemed affordable if the employee's annual Required Premium Contribution is equal to or less than the Applicable Percentage Rate of the employee's Form W-2 wages or wages as adjusted, for an employee who is not offered coverage for an entire calendar year.

3. Federal Poverty Line Safe Harbor

- a. The City measures whether the employee's Required Premium Contribution for the calendar month for the lowest cost self-only coverage that provides minimum value exceeds the Applicable Percentage Rate of the Federal Poverty Line ("FPL") for a single individual for the applicable calendar year, divided by twelve. For calendar year 2018, the Applicable Percentage Rate is 9.56% of the monthly wage. For calendar year 2019, the Applicable Percentage Rate is 9.86% of the monthly wage
- b. The City will use the FPL in effect within six months before the first day of the plan year.
- c. The coverage offered by the City will be deemed affordable if the employee's monthly Required Premium Contribution is equal to or less than the Applicable Percentage Rate of the monthly FPL for a single individual for the applicable calendar year.

4. Required Premium Contribution

The City will calculate the employee's Required Premium Contribution as follows:

- a. Identify the aggregate premium cost for the lowest cost plan offered to the employee:
- b. Subtract any employer contribution that qualifies as a Health Flex Contribution. A Health Flex Contribution is an employer contribution

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that cannot be cashed out by the employee and cannot be applied to benefits other than health, dental or vision.

- c. Add any cash-in-lieu amounts offered to the employee unless those cash-in-lieu amounts are offered under an eligible opt out arrangement.

III. REVISIONS/UPDATES TO POLICY

This Policy is subject to change as regulations and guidance are issued relating to the ACA. The City Council or City Manager or individual with delegated authority may amend this Policy at its discretion.

Legal Authority

Title 26 United States Code section 4980H, (Internal Revenue Code); *Shared Responsibility for Employers Regarding Health Coverage*, 26 CFR Parts 1, 54 and 301, 79 Fed. Reg. 8544 (Feb. 12, 2014); Title 26 United States Code section 6056, (Internal Revenue Code); *Information Reporting by Applicable Large Employers on Health Insurance Coverage Offered Under Employer Sponsored Plans*, 26 CFR Parts 301 and 602, 79 Fed. Reg. 13231 (March 10, 2014).